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and the principal community coverage requirements of Section 73.315(a) of the Commission's Rules, Channel 297C3 cannot be allotted at Cass City.<sup>3</sup>

3. Czelada contends that the *R&O* failed to fully consider his pleading. We disagree. The *Erratum* properly evaluated Edwards' filing on the merits.<sup>4</sup> Czelada also argues that we should accept his corrections for Channel 297C3 at Cass City which were submitted with his Petition for Reconsideration filed on June 11, 2001 and in his response to Edwards' Opposition to Petition for Reconsideration filed on July 10, 2001. Counterproposals are required to be filed by the comment deadline set in the Notice of Proposed Rulemaking and they must be technically correct and substantially complete when filed.<sup>5</sup> The comment date in this proceeding was April 17, 2001. Any changes to the counterproposal would have been timely only if they had been filed prior to that date. Under our rules, these proffered corrections have not been considered because they are not timely. Furthermore, had we considered them, we would have rejected them because our engineering analysis shows that Channel 297C3 cannot be allotted to Cass City at any site in accordance with our rules.

4. Czelada additionally argues that Section 307(b) of the Communications Act, as amended, requires that his proposal to allot Channel 218C3 at Ubyly be preferred over the allotment of Channel 221C3 at Cass City. As stated in the *R&O*, use of a channel in the FM reserved band is properly requested by application, and there is no exception to this rule.<sup>6</sup>

5. Finally, Czelada states that the coordinates for Channel 221C3 at Cass City in the *R&O* are incorrect. We agree that a typographical error was made and hereby correct those coordinates to reflect the actual site requested and is now reflected in our database information. Those coordinates are North Latitude 43-38-20 and West Longitude 83-08-38.

6. IT IS ORDERED That the Petition for Reconsideration filed by Edward Czelada IS DENIED.

7. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

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<sup>3</sup> See *Caro and Cass City, Michigan*, 16 FCC Rcd 9461 (2001) (Corrected by *Erratum* issued on May 11, 2001(unpub.)).

<sup>4</sup> In addition, at the time Czelada filed, use of Channel 218C3 at Ubyly was precluded by pending applications for noncommercial educational stations on Channel 218A at Bridgeport (File No. BNPED-20000214ABC (dismissed February 18, 2004)) and Fremont, Michigan (File No 20000307AAA). Edwards points out that there were additional defects with Czelada's Petition for Rulemaking, *i.e.*, it was not verified, as required by Section 1.52 of the Rules, Czelada failed to pledge to apply for the channel and construct the station, and Czelada, as an individual, is ineligible to hold an authorization for a noncommercial educational station.

<sup>5</sup> See *Auburn, et al., Alabama*, 18 FCC Rcd 10333 (2003); *Lincoln, Osage Beach, Steelville and Warsaw, Missouri*, 17 FCC Rcd 6119 (2003).

<sup>6</sup> See 47 CFR §§73.501 and 73.509; see also *Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations (Second Report and Order* in Docket No. 20735), 44 RR2d 235 (1978).

8. For further information contact Victoria M. McCauley, Media Bureau (202) 418-2180.

**FEDERAL COMMUNICATIONS COMMISSION**

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